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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,385	02/16/2000	Erik P. Staats	APPL-P2827	6463
7590		03/28/2006	EXAMINER	
VictorJ. Gallo		WON, MICHAEL YOUNG		
Sierra Patent Group Ltd		ART UNIT		
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DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/505,385

Applicant(s)

STAATS, ERIK P.

Examiner

Michael Y. Won

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed January 26, 2006.
2. Claims 5, 7, and 8 have been examined and are pending with this action.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 5 is rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific and substantial asserted utility or a well-established utility.

The language of claim 5 raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

The language in claim 1 such as "associating" is directed to an abstract idea and the results of the steps claimed does not lead to a tangible result that would solve the problem presented in the response in reference to the specification page 4, beginning at line 15.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 5 is also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999).

The term "transport" in claim 5 is indefinite because the specification does not clearly redefine the term.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takayama (US 5,991,842 A) in view of Sampat et al. (US 5,493,568 A).

As per **claim 5**, *Takayama* teaches a method for establishing transport routing information in an AV/C transaction data delivery system (see col.4, lines 5-7), comprising in combination:

notifying a transport layer of said transport ID (see Fig.2 and col.4, lines 5-10: *"transaction layer... used for the management of transfer data"* and *"serial bus management manages the connection state"*);

indexing said transport ID (inherent);

associating said indexed transport ID with a link device (see col.3, lines 31-39; col.4, lines 7-10& 26-29: *Takayama* teaches of a serial bus management that manages

the ID of each connected equipment wherein the addressing of the 1394 serial bus contains a bus ID; and col.5, line 63-col.6, line 3);

assigning a transport instance to the transport ID (see col.4, lines 7-10 and col.8, line 3-6);

associating the protocol layer with the transport instance (see Fig.2 and col.4, lines 5-10); and

associating the transport instance with a device (see col.3, lines 35-39 and col.4, lines 7-10).

Takayama does not explicitly teach detecting a transport and creating a transport ID associated with said transport.

Sampat teaches detecting a transport (see col.36, lines 3-14) and creating a transport ID associated with said transport (implicit: see col.127, lines 20-24).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of *Sampat* within the system of *Takayama* by implementing transport detection and creating a transport ID associated with said transport within the method for establishing transport routing information because

As per **claim 7**, *Takayama* teaches of further comprising creating a data record for each detected transport and storing the transport ID in association with said transport (see col.5, line 63 to col.6, line 3).

As per **claim 8**, *Takayama* teaches of further comprising notifying said transport layer of said data record (see col.4, lines 5-6).

Response to Arguments

7. Applicant's arguments filed January 26, 2006 have been fully considered but they are not persuasive.

A. Applicant asserts that a "*transport*" is a *protocol* and references to the background section of the specification, particularly page 3, lines 4-5. The applicant argue that the examiner has mischaracterized the definition of the word "*transport*" and has interpreted it as a *device* rather than a *protocol*.

The assertion by the applicant is incorrect. The examiner refers a transport to an act of communication between devices via a bus. This explanation was given in the rejection set forth in the previous office action (none of which has been addressed in the arguments). Furthermore, the reference to the background section of the application does not explicitly teach that the transport is a *protocol* as stated by the applicant.

A common definition of a "transport" (to carry or transfer somebody or something from one place to another, usually in a vehicle), known to one of ordinary skill in the art, was applied in the previous office action. In column 1, lines 10-15 of *Takayama* teaches of a system capable of transport, "a communication system for digital transfer using...". However, a new reference has been provided to explicitly teach this limitation.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., "transport protocol" as argued on page 4 of the amendment) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

For the reason above claim 1 remains rejected.

B. The applicant argues that *Takayama* does not teach "*creating a transport ID associated with said transport*".

Applicant's arguments with respect to the limitation "*creating a transport ID associated with said transport*" have been considered but are moot in view of the new ground(s) of rejection.

C. The applicant argues that *Takayama* does not teach, "indexing said transport ID".

It is inherent that ID's are indexed.

D. The applicant argues that *Takayama* does not teach "associating said indexed transport ID with a link device" because *Takayama* does not teach that the transport is a protocol.

Regarding the definition of a transport, review item A. above, of the arguments. The claim language is vague and indefinite since it recites an abstract idea and therefore the argument has no foundation or basis.

During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Furthermore, while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. See *In re American Academy of Science Tech Center*, F.3d 2004 WL 1067528 (Fed. Cir. May 13, 2004)

Conclusion

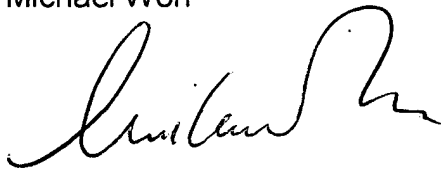
8. Claims 5, 7, and 8 have been rejected and remain pending.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Y. Won whose telephone number is 571-272-3993. The examiner can normally be reached on M-Th: 7AM-5PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Won



March 21, 2006



SALEH NAJJAR
SUPERVISORY PATENT EXAMINER